

**MINUTES OF THE
AUBURN CITY PLANNING COMMISSION MEETING
MAY 15, 2007**

The regular session of the Auburn City Planning Commission was called to order on May 15, 2007 at 6:53 p.m. by Chairman Merz in the Council Chambers, 1225 Lincoln Way, Auburn, California.

COMMISSIONERS PRESENT: Kosla, Smith, Worthington, Thompson, Chrm. Merz

COMMISSIONERS ABSENT: None

STAFF PRESENT: Will Wong, Community Development Director; Reg Murray, Senior Planner; Michael Colantuono, City Attorney; Sue Fraizer, Administrative Assistant

ITEM I: CALL TO ORDER

ITEM II: APPROVAL OF MINUTES

None.

ITEM IV: PUBLIC COMMENT

None.

ITEM V: PUBLIC HEARING ITEMS

- A. **Civic Design Amendment – 1240 High Street Auburn Towers) – File CD Amend 03-9(A).** The applicant requests approval of a Civic Design Amendment for the Auburn Towers office project at 1240 High Street. The proposed amendment will modify Condition #4, which required the developer to modify an existing access easement affecting the subject property. The amended condition allows the project to secure occupancy without modifications to the access easement provided that the developer is able to insure that the project complies with the City's development requirements such as parking and landscaping.

Planner Murray gave the staff report. When approval for this project was granted on December 2, 2003, it was recognized

that a 24' wide ingress/egress easement ran through the property. A condition (Condition #4) was created requiring modification to the easement. The project is nearing completion. The property owner has been trying to work out issues regarding the easement with one adjacent property owner that has interest in the easement. There have been some complications and the developer has approached the City about whether or not the easement can be modified in some way. Staff has determined that the issue of the easement is a private issue between the property owners, provided that the project is in compliance with the City's development standards, (e.g. parking requirements and landscaping).

After review, staff provided a modification to Condition #4 which would allow the project to receive occupancy provided that it complies with the City's development standards. The modified condition provides four alternatives. If legal issues arise between property owners or easement holders, those must be handled privately. As a result, if the project is affected, there will be a means identified for the property owner to comply with the City's development standards. The four alternatives are: provide alternative parking on-site if necessary; modify the usable space of the building itself to compensate for any reduction in parking that may be lost; provide off-site parking with the approval of the Planning Commission; or provide parking via a fee payment subject to review and approval of City Council.

These alternatives give the developer the opportunity to satisfy their needs, as well as maintain compliance with the City's standards.

The City received communication from one of the other parties interested in the easement, which was provided in the staff report. Another letter was received today and was provided to the Commissioners tonight.

Staff recommends the amended Condition as it is written.

City Attorney, Michael Colantuono explained that the issue of the easement rights is a private matter. The City needs to be as respectful as it can to the property rights of those affected. The amendment will allow the building to be occupied despite the pending lawsuit. He further explained the proposed amendment alternatives.

Comm. Kosla asked Mr. Colantuono questions about easement rights, which Mr. Colantuono answered.

The public hearing was opened.

Andrew Harris, 200 Auburn Folsom Road, Suite 305, Auburn is an attorney representing the Huggins'. The Huggins have interest in the affected easement at the project location and have filed a lawsuit. They have two reasons for attendance tonight: one is that the City has allowed the applicant to disregard prior direction to resolve this matter in 2006; the second is to propose a condition that the applicant provide alternative access during the resolution of the lawsuit. This property is near Placer High School. Entrance to the Huggins' property is via two small entrances on High Street. The easement was an important way for Mr. Huggins and his tenants to access the property via High Street during times of congestion or emergency. The current construction constrains the easement to a single lane. They do not feel the applicant has acted in good faith.

Pat Huber, one of the adjoining property owners stated that the applicant has cut off any access from the property to High Street. She spoke about her concerns about the easement and requested alternate access to her property. She feels that the applicant has made no effort to rectify the situation. She requests that the applicant be denied an occupancy agreement.

John Blinder, who represents the applicant, stated that he is surprised by these comments. When they were given the building permit, they thought they had resolved the issues at hand. It was not handled properly, and a mistake was unintentionally made. They were unaware of Ms. Huber's issues until tonight. They are interested in resolving the problems.

Attorney Colantuono asked if the applicant is willing to agree to alternate access across the site while the issue is pending.

Mr. Blinder said he doesn't see any problem with that.

Mrs. Huber stated that she was confused. She asked for clarification about tonight's request.

Attorney Colantuono explained that the request is for an amendment to the conditions of approval that would require the applicant to replace any parking and landscaping that they lose if the court orders them to restore the easement.

Mrs. Huber stated that she was misinformed. After hearing this explanation, she has no objection to the proposed change in the condition.

Chrm. Merz stated that there seems to be a misunderstanding between the parties and suggested they get together to resolve their issues.

Attorney Colantuono explained that approving the amended condition does not preclude the parties from resolving their issues separately. He noted that this is the type of issue that can and should be mediated. All of the parties have something to gain by finding a solution. He suggested that the Commission act on staff's recommendation for the amended condition which will facilitate a resolution.

Comm. Worthington **MOVED** to:

Adopt Resolution No. 07-12 to approve a Civic Design Amendment request to modify Condition #4 relating to an existing access easement associated with the Auburn Towers office project at 1240 High Street.

Comm. Thompson **SECONDED**.

AYES: Kosla, Smith, Thompson, Worthington, Chrm.
Merz
NOES: None
ABSTAIN: None
ABSENT: None

The motion was approved.

- B. Variance – 485 Miles Court (Young Variance) – File VA 07-3.** The applicant requests approval of a Variance (File VA 07-3) for the property located at 485 Miles Court. The request would allow a retaining wall and security fencing for a swimming pool to encroach into the required rear yard setback by locating within one foot of the rear property line.

Planner Murray gave the staff report. The home is built on a cul-de-sac. It is situated right at the front and rear setbacks. The applicant received approval of an administrative permit which allows for encroachment of half of the rear setback to install a deck. The applicant would like to put in a swimming pool. A four to six foot high retaining wall with a security fence is to be installed. A variance is required to allow

construction of the pool and retaining wall within the required setback area. Staff is in support of this request.

Comm. Smith asked if this property backs up to the parcel at 460 Racetrack.

Planner Murray said yes, it does.

Comm. Smith asked if there will be a problem with the property owner on Racetrack.

Planner Murray stated that all of the neighboring property owners were notified, and no communication was received for this application.

Comm. Worthington asked if there will be fencing.

Planner Murray replied that fencing will be installed on top of the retaining wall.

Comm. Worthington asked what the height of the fence will be.

Planner Murray stated that the fence height is unknown at this time, however a maximum fence height of six feet would be allowed.

Comm. Worthington **MOVED** to:

Adopt Resolution No. 07-10 to approve a variance request to allow a retaining wall and security fencing for a swimming pool to encroach to within one foot of the rear property line at 485 Miles Court.

Comm. Smith **SECONDED**.

AYES:	Kosla, Smith, Thompson, Worthington, Chrm. Merz
NOES:	None
ABSTAIN:	None
ABSENT:	None

The motion was approved.

ITEM V: COMMUNITY DEVELOPMENT DEPARTMENT FOLLOW-UP REPORTS

- A. City Council Meetings
The Walker Lot Split appeal has been continued to the June 11, 2007 meeting.
- B. Future Planning Commission Meetings
On June 5, 2007 there will be a review of the Airport Master Plan.
- C. Reports
The Code Enforcement officer is working on sign enforcement issues.

ITEM IV: PLANNING COMMISSION REPORTS

Director Wong reported that he met with the finance director to go over the proposed budget. Two items of interest are the housing element which is due to be updated in June 2009, and updating the sign ordinance.

ITEM X: ADJOURNMENT

The meeting was adjourned at 7:53 p.m.

Respectfully submitted,

Susan Fraizer, Administrative Assistant